



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

Thirty-ninth session

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### Concluding comments of the Committee on the Elimination of Discrimination against Women: Brazil

1. The Committee considered the sixth periodic report of Brazil (CEDAW/C/BRA/6) at its 795th and 796th meetings, on 25 July 2007 (see CEDAW/C/SR.795 (B) and 796 (B)). The Committee's list of issues and questions is contained in CEDAW/C/BRA/Q/6 and the responses of the Government of Brazil are contained in CEDAW/C/BRA/Q/6/Add.1.

#### Introduction

2. The Committee expresses its appreciation to the State party for its sixth periodic report, which followed the Committee's guidelines for the preparation of reports and took into account the Committee's previous concluding comments. The Committee commends the State party for the written replies to the list of issues and questions raised by the pre-session working group, and for the oral presentation, which elaborated on the recent developments in the implementation of the Convention in Brazil.

3. The Committee commends the State party on sending a high-level delegation headed by the Minister of the Special Secretariat of Policies for Women, and including other representatives of the Special Secretariat of Policies for Women and representatives of the Ministries of Agrarian Development, External Relations, Health and Justice. The Committee expresses its appreciation for the constructive dialogue held between the delegation and the members of the Committee.

4. The Committee welcomes the State party's recognition of the active contribution of the women's movement in Brazil and its cooperation with non-governmental organizations in striving to achieve gender equality.

#### Positive aspects

5. The Committee commends the State party for its sustained political will and commitment to eliminating discrimination against women, as expressed in



significant legal reform, policies, plans and programmes and the establishment of decentralized gender equality mechanisms.

6. The Committee commends the State party on its progressive efforts to bring legislation in line with the principle of equality between women and men in the Constitution and the Convention, in particular Law 11340 (The Maria da Penha Law) of 7 August 2006 on domestic and family violence against women as well as the new Civil Code (2003), Law 11106 of 28 March 2005 amending the Penal Code, other legislation relating to employment, maternity and health issues and several legislative initiatives at state level in different areas.

7. The Committee welcomes the many and varied policies, plans and programmes in critical areas of women's lives, such as eradication of poverty, economic autonomy, violence against women, sexual violence against children and adolescents, trafficking in persons, sexual and reproductive health and HIV/AIDS prevention.

8. The Committee commends the State party on its strategy to encourage the establishment of institutional mechanisms for monitoring and implementing gender equality policies at state and municipal levels.

9. The Committee commends the State party on its engagement in full participatory processes to define its priorities and elaborate proposals for gender equality policies, such as the First National Conference on Women, held in July 2004, and the Second National Conference, scheduled for August 2007.

#### **Principal areas of concern and recommendations**

**10. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on actions taken and concrete results achieved in its next periodic report. It also calls upon the State party to submit the present concluding comments to all relevant ministries, other government structures at all levels and to Parliament, in order to ensure their full implementation.**

11. The Committee is concerned about the persistent gap between the de jure and de facto equality of women and men, particularly among the most vulnerable sectors of society, such as women of African descent and indigenous women, and other marginalized groups, which is exacerbated by regional, economic and social disparities.

**12. The Committee encourages the State party to enhance its efforts to close the gap between de jure and de facto equality of women and men by ensuring full implementation of laws, plans and policies and through regular, effective monitoring and impact assessment, especially in regard to the most disadvantaged groups of women. It recommends that the State party ensure that those charged with responsibility for implementation of such laws and policies at all levels are fully aware of their obligations.**

13. The Committee is concerned about the difficulties experienced by the State party in implementing the provisions of the Convention at all levels of the Federal Republic in a consistent manner, which are linked to the different degree of political will and commitment of state and municipal authorities.

**14. The Committee notes the full responsibility of the State party, including all three branches of State power, and regardless of the State party's constitutional structure, to comply at all levels with its obligations under the Convention. It recommends that uniformity of standards and results in the implementation of the Convention be ensured throughout the country, including through the establishment of effective implementation mechanisms and coordination. It also recommends that all authorities at federal, state and municipal levels be fully aware of Brazil's international commitments under the Convention and in the area of human rights in general.**

15. The Committee is concerned that the provisions of the Convention have only rarely been invoked in court cases in recent years, which reveals a lack of knowledge about the Convention. It is also concerned about women's limited knowledge of their rights under the Convention and its Optional Protocol and related domestic legislation.

**16. The Committee calls upon the State party to ensure that the Convention and related domestic legislation are an integral part of the education and training of judicial officers, including judges, lawyers, prosecutors and public defenders, as well as of the curricula in universities, so as to establish firmly in the country a legal culture supportive of gender equality and non-discrimination. It further calls upon the State party to enhance women's awareness of their rights, including in remote areas and among the most disadvantaged groups, through legal literacy programmes and legal assistance so that they can claim all their rights under the Convention. It encourages the State party to further disseminate and raise awareness about the Convention and the Optional Protocol among the general public so as to create awareness of women's human rights.**

17. The Committee is concerned at the fragile nature and capacity of the gender equality mechanisms established in some states and municipalities in respect of their mandated coordination and monitoring functions. The Committee is also concerned that the human and financial resources of the Special Secretariat of Policies for Women may not be commensurate with its mandate.

**18. The Committee recommends that the State party strengthen the gender equality mechanisms, both at the federal level and those established in states and municipalities, with sufficient human and financial resources and technical capacity-building activities so that they can effectively undertake their mandated tasks.**

19. While recognizing the efforts being undertaken, particularly in the educational sector, to deconstruct myths and negative stereotypes about the roles and responsibilities of women and men in the family and the wider community, the Committee is concerned about the prevalence of these stereotypes and the need to achieve further cultural change.

**20. The Committee calls upon the State party to implement comprehensive measures to accelerate change in the widely accepted attitudes and practices**

**that trap women in subordinate roles and the stereotypical roles applied to both sexes. Such measures should include awareness-raising and educational campaigns addressing women and men, girls and boys, parents, teachers and public officials, in accordance with the obligations under articles 2 (f) and 5 (a) of the Convention. The Committee also recommends that the State party increase its efforts to encourage the media to discuss and promote non-stereotypical and positive images of women and promote the value of gender equality.**

21. While commending the State party on the enactment of the important new domestic violence legislation, Law 11340 (The Maria da Penha Law) of 7 August 2006, as recommended by the Committee in its previous concluding comments, and various other measures taken by the State party to combat violence against women, the Committee is concerned that violence against women and girls is widespread and apparently under-reported. It is also concerned that violence against women and girls is still not recognized by society as a whole as a human rights violation.

**22. The Committee urges the State party to continue to give priority to eliminating all forms of violence against women, including domestic violence, and to expeditiously adopt effective measures for the full implementation of the new legislation, such as the speedy creation of special courts on domestic violence against women throughout the country and the full involvement of all relevant actors, including non-governmental organizations, judicial officers and other professionals working to address violence against women. The Committee further recommends systematic monitoring and evaluation of the impact of Law 11340 (The Maria da Penha Law), including through collection of data, disaggregated by type of violence and by the relationship of the perpetrator to the victim. It also recommends further public awareness-raising campaigns on the unacceptability of violence against women as a human rights violation. The Committee encourages the State party to make full use of the Committee's general recommendation 19 and of the information contained in the Secretary-General's in-depth study on all forms of violence against women (A/61/122 and Add.1 and Add.1/Corr.1).**

23. While acknowledging measures taken by the State party to combat human trafficking, both internal and international, including its accession to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and adoption of the National Policy for Fighting Trafficking in Persons by Decree No. 5948 of 27 October 2006, the Committee is concerned at the scope of the phenomenon, the insufficient number and quality of support services providing specialized care and skill in dealing with victims.

**24. The Committee calls upon the State party to effectively apply its anti-trafficking measures, fully implement its National Policy for Fighting Trafficking in Persons and complete, without delay, the elaboration of the national plan on trafficking in persons, which should include a gender, race and age dimension. The Committee requests the State party to consider adopting anti-trafficking legislation that would ensure adequate punishment of perpetrators and offer human rights-based protection and support to victims, including long-term reintegration programmes. The Committee also requests the State party to adopt measures aimed at reducing the vulnerability of women and girls to traffickers.**

25. The Committee is concerned that Law No. 9504 of 30 September 1997, which establishes a quota system, has proved to be inefficient and has had little if any impact on women's participation in political life. The Committee also remains concerned that women are still significantly underrepresented at all levels and instances of political decision-making, including in elected bodies, at the highest levels of the judiciary, and in diplomacy.

**26. The Committee encourages the State party to take sustained legal and other measures to increase the representation of women in elected and appointed bodies and at the highest levels of the judiciary, and in diplomacy. It recommends that the State party introduce appropriate legal and other measures, including amending or replacing ineffective laws and adopting temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 to increase the number of women in political and public positions within a concrete time frame in line with the Committee's general recommendation 23. The Committee recommends that the State party carry out awareness-raising campaigns among both men and women on the importance of women's full and equal participation in political and public life and in decision-making, as a necessary component of a democratic society, and create enabling, encouraging and supportive conditions for such participation.**

27. While acknowledging positive developments in the implementation of article 11 of the Convention, including the Gender Pro-Equity Programme, the Programme to Encourage Economic Autonomy for Women in the Work World and the Programme to Combat Poverty, the Committee is concerned at the discrimination faced by women in employment, as reflected in the enduring wage gap that increases with their level of education, occupational segregation and fewer opportunities for career advancement. The Committee is also concerned about the situation of women domestic workers, principally women of African descent, who have been generally excluded from the protection of labour law and are vulnerable to exploitation by their employers, including sexual abuse.

**28. The Committee recommends that the State party adopt policies and concrete measures to accelerate the eradication of pay discrimination against women and to work towards ensuring de facto equal opportunities for women and men in the labour market. It also recommends that further measures allowing for the reconciliation of family and professional responsibilities be adopted and implemented, including the provision of affordable childcare, and that the equal sharing of domestic and family tasks between women and men be promoted. The Committee calls on the State party to ensure that women domestic workers are duly protected against discrimination, exploitation and abuse. It recommends that Law 11324 (2006), which allows an employer of a domestic worker to take a tax deduction for a percentage of the social security contribution, be monitored and evaluated so as to determine whether this incentive has contributed significantly to the formalization of domestic work. It encourages the State party to adopt without delay Bill 7363/2006, which regulates domestic work and includes domestic workers in the Time-Served Guarantee Fund.**

29. While noting the steps taken by the State party to enhance women's health, including sexual and reproductive health, such as the National Policy for Sexual and

Reproductive Rights (May 2006), the National Pact for the Reduction of Maternal Mortality and the Integrated Plan for Fighting the Feminization of HIV/AIDS and other Sexually Transmitted Diseases, the Committee is concerned that the rate of maternal mortality remains high, indicating precarious socio-economic conditions, low levels of information and education, family dynamics associated with domestic violence and particularly difficult access to quality health services. It is also concerned about the magnitude of teenage pregnancy. The Committee is further concerned at the high number of unsafe abortions, the punitive provisions imposed on women who undergo abortions and the difficulties in accessing care for the management of complications arising as a result.

**30. The Committee encourages the State party to continue its efforts to enhance women's access to health care, in particular to sexual and reproductive health services, in accordance with article 12 of the Convention and the Committee's general recommendation 24 on women and health. It requests the State party to strengthen measures aimed at the prevention of unwanted pregnancies, including by increasing knowledge and awareness about, as well as access to, a range of contraceptives and family planning services. The Committee further requests the State party to monitor closely the implementation of the National Pact for the Reduction of Maternal Mortality at state and municipal levels, including by establishing maternal mortality committees where they still do not exist. The Committee recommends that the State party give priority attention to the situation of adolescents, and that it provide appropriate life skills education with special attention to the prevention of pregnancies and HIV/AIDS and other sexually transmitted diseases. The Committee further recommends to the State party to expedite the review of its legislation criminalizing abortion with a view to removing punitive provisions imposed on women who undergo abortion, in line with general recommendation 24 and the Beijing Declaration and Platform for Action.<sup>1</sup> The Committee also urges the State party to provide women with access to quality services for the management of complications arising from unsafe abortions.**

31. While noting measures taken to improve the situation of rural women and girls, including the establishment of a National Rural Working Women's Documentation Programme, the Committee is concerned about the scope of inequality and poverty of rural women, as reflected in their relatively high illiteracy rates, lower school enrolment, poor access to health care, including sexual and reproductive health, and vulnerability to violence. The Committee is also concerned about those rural women who still lack documentation, such as personal identity cards or personal registration numbers, which are necessary to benefit from social security and other programmes, such as the Family Grant Programme, as well as access to credit and ownership of land.

**32. The Committee urges the State party to ensure that all rural development policies and programmes integrate a gender perspective and explicitly address the structural nature of poverty faced by rural women. It recommends that the State party strengthen its efforts to implement comprehensive nationwide health and educational programmes, including programmes in the areas of functional literacy, enterprise development, skills training and microfinance, as**

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<sup>1</sup> *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

**a means of poverty alleviation. It also recommends that the State party continue to expand women's access to the National Agrarian Reform Programme and to ensure that the National Rural Working Women's Documentation Programme reaches all women in remote rural areas. The Committee encourages the State party to ensure that the situation of rural women is taken into account in efforts to eliminate women's vulnerability to violence.**

33. While appreciating the explanation provided in the report and during the constructive dialogue on the use of the terms "equity" and "equality" and on the meaning attributed to each, and while recognizing the specificities of different languages, the Committee remains concerned at the State party's use of the term "equity" regarding women and men because it includes the subjective notions of comparability and equivalency, which might convey a misleading message, in view of the objective of the Convention, which is the practical realization of women's full de jure and de facto equality with men.

**34. The Committee encourages the State party to continue to reflect on this matter, while reiterating its view that what is at stake in the implementation of the Convention is the achievement of gender equality in its deepest sense, both legal/formal equality as well as real/substantive equality in all areas of life.**

35. The Committee is concerned at the lack of sufficient data about women of African descent, indigenous women and other vulnerable and marginalized groups, who often suffer from multiple forms of discrimination. The Committee notes that this lack of sufficient information and statistics has prevented it from forming a comprehensive picture of the de facto situation of these women in all areas covered by the Convention and the impact of governmental policies and programmes aimed at eliminating discrimination against them.

**36. The Committee requests the State party to enhance collection of data disaggregated by sex, race and age, where appropriate, in all areas covered by the Convention and to include adequate statistical data and analysis, disaggregated by sex, race and age, and by urban and rural areas, in its next report so as to provide a full picture of the implementation of all the provisions of the Convention. It also recommends that the State party regularly conduct impact assessments of its legislation, policies, plans and programmes to ensure that measures taken lead to the desired goals, and that it inform the Committee about the results achieved in the implementation of the Convention in its next report.**

**37. The Committee urges the State party to continue to utilize, in its implementation of its obligations under the Convention, the Beijing Declaration and the Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

**38. The Committee also emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Goals and requests the State party to include information thereon in its next periodic report.**

39. The Committee notes that the adherence of States to the seven major international human rights instruments<sup>2</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of Brazil to consider ratifying the treaty to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

40. The Committee requests the wide dissemination in Brazil of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians, magistrates, lawyers and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and the Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century" (resolution S-23/3, annex).

41. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention, which is due in March 2009.

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<sup>2</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.